COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4872-01
Bill No.: HB 1918
Subject: Health Care; Medicaid; Department of Social Services
Type: Original
Date: February 16, 2010

Bill Summary: This legislation amends various requirements for public assistance programs administered by the state.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	Unknown but Greater than $22,907,876	Unknown but Greater than $41,717,470	Unknown but Greater than $60,780,324
Total Estimated Net Effect on General Revenue Fund	**Unknown but Greater than $22,907,876**	**Unknown but Greater than $41,717,470**	**Unknown but Greater than $60,780,324**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Pharmacy Rebates	$1,497,051	$4,308,505	$4,649,739
Total Estimated Net Effect on Other State Funds	**$1,497,051**	**$4,308,505**	**$4,649,739**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Federal*	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

*Income and expenses would net to $0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☐ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Sections 208.010, 208.152, 208.166, 208.227, 208.903, 208.909, 208.918, 660.300, 1:

Officials from the **Office of the Secretary of State** assume authority is given to the Department of Social Services and the Department of Health and Senior Services to promulgate rules. These rules will be printed by our Division in the Missouri Register and the Code of State Regulations. Based on experience with other Departments, the rules, regulations, and forms issued by the Department of Social Services and the Department of Health and Senior Services could require as many as 54 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes, and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the Missouri Register is $23.00. The estimated cost of a page in the Code of State Regulations is $27.00. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn.

Oversight assumes the SOS could absorb the costs of publishing related to this proposal. If multiple bills pass which require publishing at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Department of Mental Health (DMH)** assume the proposal allowing non-contracted providers ninety five percent of the rates received by contracted providers does not appear to impact the DMH. Also, the proposal to establish the Psychotropic Medication Review Subcommittee of the Mo HealthNet Drug Prior Authorization Committee for the review of psychotropic medications does not appear to have a fiscal impact on the DMH. The language regarding personal care services could create a cost to the DMH, since a number of developmentally disabled consumers residing in residential facilities receive personal care in excess of the 80 hour per month limit. Therefore, the fiscal cost is estimated as unknown to less than $100,000 for General Revenue and Federal Funds.

Officials from the **Department of Health and Senior Services** state the following:

All Medicaid related cost avoidances are calculated at the blended FY 2011 Federal Medical Assistance Percentage (FMAP) rate of 63.595%. This rate was utilized in projections for all years.

ASSUMPTION (continued)

Cost Avoidance Related to Changes in Personal Care Section 208.152.1(14) and 208.903.1(8): Through changes to the Medicaid state plan for personal care services, cost avoidance is projected within the Home and Community Based Services (HCBS) program. Currently, over 49,000 Medicaid participants in the state of Missouri receive some form of HCBS. Of these, 8,205 would be affected by the language in Section 208.152 or 208.903. (This data is as of 12/1/09.)

Service Received	# of clients	# above 80 hours per month	Average # of units above limit	Rate per unit	Total monthly costs of units above limit	100% Annualized Cost Avoidance (Monthly Cost X 12 X 0.75)
Consumer Directed Services (CDS)	8,708	4,900	147.7	$ 3.69	2,670,564	24,035,076
In-Home Services	21,768	2,496	58.7	$ 4.24	621,224	5,591,016
In-Home/CDS	1,649	809	157.3	$ 3.69	469,574	4,226,166
	32,125	8,205			3,761,362	33,852,258

The estimated cost avoidance is based upon the number of participants affected by the legislation, multiplied by the average number of units over the limit (1 hour = 4 units) multiplied by the cost per unit, multiplied by 12 months. On average, approximately 75 percent of authorized services are delivered, so this total is then multiplied by 75 percent to obtain annualized cost avoidance.

All current clients will be reassessed prior to changes in care plans. It is unclear at this time how rapid this process will occur through a third-party assessor (see below), Division of Senior Disability Services (DSDS) assumes a range from 25 percent to 75 percent of total cost avoidance in the first year (FY 2011), with full cost avoidance in FY 2012 and beyond, based upon the assumption that all clients will be reassessed prior to the beginning of FY 2012.

Summary: FY 2011: $8,463,065 - $25,389,194; FY 2012: $33,852,258; FY 2013: $33,852,258.

Telephony (Section 208.909, 208.918, and Section 1): Telephony is a form of an electronic verification system, and was recommended by the Lewin Group to the Department of Social Services (http://www.dss.mo.gov/mhd/oversight/pdf/longterm-care2010jan07.pdf, page 20).

ASSUMPTION (continued)

When used in other states, telephony has resulted in more accurate billing and cost savings of up to five percent. Under the proposed legislation, all vendors and providers of home and community based services must have a telephony based system on July 1, 2011 (for vendors and providers with more than 150 participants), and on July 1, 2012 (for vendors and providers with 150 or fewer participants). Due to the staggered implementation date, DSDS assumes savings in FY 2011 of $0 to $1,000,000, savings in FY 2012 of $0 to $2,000,000, and up to five percent of all HCBS costs in FY 2013. Assuming HCBS costs in FY 2013 of approximately $500,000,000, this will results in a cost avoidance up to $25,000,000.

Summary: FY 2011: $0 - $1,000,000; FY 2012: $0 - $2,000,000; FY 2013: $0 - $25,000,000.

Third Party Assessment (deletion of Section 208.895): Assessments conducted by an independent third party was another recommendation made by the Lewin Group (ibid., page 9). This legislation addresses the HCBS assessment component. When implemented in other states, denial rates increased up to 0.75 percent, due to more accurate and consistent assessments.

Using the Lewin Group's estimates: Cost avoidance would be realized for 10,000 nurse assessments currently conducted at $40.85/assessment or $408,500- savings based on standard FMAP (pursuant to section 208.895, RSMo).

DSDS projects that there will be an increased cost for IT modifications of the web-based assessment tool. Projected costs are unknown, <$500,000 (50 percent GR/FED) for FY 2011.

Annual cost of conducting up to 20,000 to 25,000 nurse assessments (as projected by Lewin) at a cost of $172/assessment, at a 50 percent FMAP = ($3,440,000 to $4,300,000) (50 percent GR/FED).

Projected cost avoidance - Lewin assumes up to two percent increase in denial rates for HCBS services. Assuming 20,000 - 25,000 assessments, this would be a denial at intake of an additional 400 - 500 participants. Based upon an average cost per participant of $7,766 (FY 2009 average), cost avoidance is projected between $3,106,400 - $3,883,000. Additionally, Lewin projects a cost avoidance of one percent of annual cost per participant. Based upon FY 2009 total clients of 56,717 and an average cost avoidance of $77.66, cost avoidance due to decreased cost per client is estimated at $4,404,642. Total cost avoidance is estimated at $7,511,042 (standard FMAP).

ASSUMPTION (continued)

	FY 2011	FY 2012	FY 2013	Notes
Nurse Assessments	$408,500	$408,500	$408,500	Standard FMAP (63.595%)
IT Modifications	($0 - $500,000)	$0	$0	50% GR/FED
Third party conducted assessments	($3,440,000 - $4,300,000)	($3,440,000 - $4,300,000)	($3,440,000 - $4,300,000)	50% GR/FED
Increased Denial	$3,106,400 - $3,883,000	$3,106,400 - $3,883,000	$3,106,400 - $3,883,000	Standard FMAP (63.595%)
Decreased Cost per Participant	$4,404,642	$4,404,642	$4,404,642	Standard FMAP (63.595%)
Total	**$3,119,542 - $5,256,142**	**$3,619,542 - $5,256,142**	**$3,619,542 - $5,256,142**	

In addition to the Medicaid cost avoidance, DSDS assumes there would be General Revenue cost avoidance related to the Non-Medicaid Eligible (NME) funding stream, as authorized in Section 208.930, RSMo. Reimbursement related to this language is tied to the consumer directed services program authorized in Section 208.900-208.927, RSMo. DSDS assumes that the language would reduce up to 10,300 units of authorized services per month. FY 2011 cost avoidance assumes a 75 percent delivery rate and a 25 percent in expenditure reduction for these services in the first fiscal year with a full year's cost avoidance beginning in FY 2012.

Summary: FY 2011: $85,516; FY 2012: $342,063; FY 2013: $342,063.

The remaining sections of the legislation will have no impact on DHSS.

Total Net Fiscal Impact:

FY 2011:	GR:	$3,649,604 - $11,138,332
	FED:	$8,018,519 - $20,592,520
	TOTAL:	$11,668,123 - $31,730,852
FY 2012:	GR:	$13,399,087 - $14,839,908
	FED:	$24,414,776 - $26,610,555
	TOTAL:	$37,813,863 - $41,450,463

ASSUMPTION (continued)

FY 2013:	GR:	$13,399,087 - $23,073,266
	FED:	$24,414,776 - $41,377,197
	TOTAL:	$37,813,863 - $64,450,463

Officials from the **Department of Social Services-MO HealthNet Division (MHD)** state the following:

Section 208.010.10.: Currently MHD is required to reimburse full payment of Medicare Part B coinsurance and deductibles for dual eligibles. 1902(n)(2) of the SSA provides that a state is not required to provide payment to the extent that the payment under Medicare would exceed the payment amount under Medicaid. The proposed legislation will allow the MHD to re-price Part B outpatient crossover claims to no more than the MHD fee schedule amount.

A sample of the Part B outpatient crossover claims was taken and 26% of the sample could be re-priced to the MHD fee schedule. Based on this sample, it is estimated MHD could save $21.9 million. (Outpatient crossover payments multiplied by 26%.) Cost Savings for re-price of Part B Hospital Outpatient claims: FY11 $21,900,000, FY12 $22,710,300 and FY13 $23,550,581. A 3.7% trend was added for FY12 & FY13.

Section 208.166.3.(8): Section establishes a ceiling that managed care payments will not exceed. It is unknown the fiscal impact this would have on all out-of-network claims. However, the impact on hospital providers has been calculated.

Currently out-of-network payments to hospitals are often well above the MHD fee-for-service payment levels; the managed care plans and hospitals must negotiate a mutually acceptable payment for each out-of-network claim. This section will prevent excess payments made by managed care plans and should lead to reduced capitation rates. The projected savings is $8.2 million.

Cost Savings for ceiling for out-of-network hospital payments made by MCO: FY11 $8,200,000, FY12 $8,503,400 and FY13 $8,818,026. A 3.7% trend was added for FY12 & FY13.

Section 208.227: Allows the MHD to manage psychotropic drug use. Psychotropics are used to treat schizophrenia, bipolar disorder, mania and psychotic agitation and depression. This is an expensive class of medications which is a major driver in the overall Mo HealthNet drug spend. As new medications are approved, physicians quickly prescribe these high-cost psychotropics.

ASSUMPTION (continued)

This legislation establishes a Psychotropic Medication Review Subcommittee that shall develop, access, use, and monitor requirements for all medications approved by the United States Food and Drug Administration (FDA) as agents which may be prescribed in the treatment of behavioral health issues.

MHD assumes the majority of savings will be achieved through editing of outlier utilization of psychotropic medications, which include:

- Polypharmacy and associated medical risk to members
- Prescribers unaware of presence of other prescribers
- Therapeutic duplication of atypical antipsychotics

The MHD assumed a supplemental rebate collection of 4% for FY12 and FY13. This is base on the supplemental rebate collection on current PDL classes. The rebate collection for FY11 was based on a phased-in collection of 1% in quarter 2, 2% in quarter 3 and 3% in quarter 4 of FY11.

The oversight of psychotropic drugs is expected to reduce utilization and result in a cost savings of $27,186,974 in FY11 and $58,682,987 for FY12 and $110,828,690 in FY13.

The proposed legislation has other changes to section 208. However the funding for these services is not included in the MDH budget. It is assumed the DHSS will include the fiscal impact to these changes in their response.

Total cost savings is Unknown > $57,286,974 ($19,358,272 GR/$1,497,051 Rx Rebates) in FY11; Unknown > $89,896,687 ($28,418,383 GR/$4,308,505 Rx Rebates) in FY12 and Unknown > $143,197,297 ($47,481,237 GR/$4,649,739 Rx Rebates)) in FY13.

Officials from the **Office of Administration** have not responded to Oversight's request for fiscal information.

FISCAL IMPACT - State Government	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
Savings - Department of Health and Senior Services			
Program Savings	$3,649,604 to $11,138,332	$13,399,087 to $14,839,908	$13,399,087 to $23,073,266
Savings - Department of Social Services			
Program Savings	Unknown but Greater than $19,358,272	Unknown but Greater than $28,418,383	Unknown but Greater than $47,481,237
Costs - Department of Mental Health			
Program Costs	(Unknown but less than $100,000)	(Unknown but less than $100,000)	(Unknown but less than $100,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**Unknown but Greater than $22,907,876**	**Unknown but Greater than $41,717,470**	**Unknown but Greater than $60,780,324**
PHARMACY REBATES FUND			
Savings - Department of Social Services			
Program Savings	$1,497,051	$4,308,505	$4,649,739
ESTIMATED NET EFFECT ON PHARMACY REBATES FUND	**$1,497,051**	**$4,308,505**	**$4,649,739**

FISCAL IMPACT - State Government (continued)	FY 2011 (10 Mo.)	FY 2012	FY 2013
FEDERAL FUNDS			
Savings - Department of Health and Senior Services			
Program Savings	$8,018,519 to $20,592,520	$24,414,776 to $26,610,555	$24,414,776 to $41,377,197
Savings - Department of Social Services			
Program Savings	Unknown but Greater than $36,431,651	Unknown but Greater than $57,169,799	Unknown but Greater than $91,066,321
Income - Department of Mental Health			
Federal Assistance	Unknown but less than $100,000	Unknown but less than $100,000	Unknown but less than $100,000
Costs - Department of Health and Senior Services			
Reimburse Federal Assistance	($8,018,519 to $20,592,520)	($24,414,776 to $26,610,555)	($24,414,776 to $41,377,197)
Costs - Department of Social Services			
Reimburse Federal Assistance	(Unknown but Greater than $36,431,651)	(Unknown but Greater than $57,169,799)	(Unknown but Greater than $91,066,321)
Costs - Department of Mental Health			
Program Costs	(Unknown but less than $100,000)	(Unknown but less than $100,000)	(Unknown but less than $100,000)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2011 (10 Mo.)	FY 2012	FY 2013
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

This legislation will mandate that in-home services providers and consumer directed services vendors must have a telephonic based billing system.

FISCAL DESCRIPTION

Sections 208.010, 208.152, 208.166, 208.227, 208.903, 208.909, 208.918, 660.300, 1:

The proposed legislation amends various requirements for public assistance programs administered by the state.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Mental Health
Department of Health and Senior Services
Department of Social Services
Office of the Secretary of State

Not Responding: Office of Administration

Mickey Wilson, CPA
Director

SEC:LR:OD (12/02)

February 16, 2010